

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS ST., SUITE 4600, PHOENIX, ARIZONA 85007

PHONE: (602) 364-1PET: (1738) FAX: (602) 364-1039

VETBOARD.AZ.GOV

COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: March 9, 2020 Case Number: 20-85

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT: Dr. Fernando Notario

Premise Name: Grand Paws Animal Clinic

Premise Address: 11310 W. Bell Avenue

City: Surprise State: Az Zip Code: 85378

Telephone: (623) 322-3919

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: Michael Lacenski

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Home Telephone: [REDACTED] Cell Telephone: [REDACTED]

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

RECEIVED
MAR 09 2020
BY: [Signature]

C. PATIENT INFORMATION (1):

Name: Carson Lacenski
Breed/Species: Terrior Mix
Age: 10 Sex: M Color: Tan

PATIENT INFORMATION (2):

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.

Dr. Fernando Notario
11310 W. Bell Rd.
Surprise, Az. 85378
623-322-3919

E. WITNESS INFORMATION:

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.

Stephanie Lacenski

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: 

Date: 3/5/2020

F. ALLEGATIONS and/or CONCERNS:

Please provide all information that you feel is relevant to the complaint. This portion must be either typewritten or clearly printed in ink.

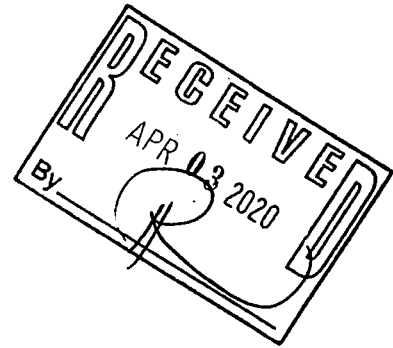
Carson was issued the prescription drug Tramadol for pain. After we began issuing the drug to Carson, Dr. Notario prescribed an additional prescription drug Gabapentin for Carson. We did not request the Gabapentin as the Tramadol was relieving Carson's pain. After obtaining the Gabapentin, I researched the drug on the internet and determined it was an anti-seizure drug. I spoke with Dr. Notario to express my concerns that Carson was being prescribed a drug for seizures which he was not exhibiting. Dr. Notario stated that Gabapentin could also be prescribed for neuropathic pain. I stated that Carson did not have neuropathic pain, but, exhibited muscular pain. I stated that I did not want to give Carson the Gabapentin as his symptoms did not match the Gabapentin benefits. I requested to return the medication and a full refund.

The office manager for Grand Paws Animal Clinic stated that I could return the medication but would not be issued a refund. I stated that the Gabapentin was misdiagnosed and I did not request the drug. I was again told that I could return the Gabapentin but would not be issued a refund.

The Gabapentin was issued to my dog for symptoms he did not exhibit. I believe the Gabapentin was issued to upcharge me for a drug my dog did not require. When I requested a refund, I was refused.

March 31, 2020

Arizona State Veterinary Medical Examining Board
1740 W. Adams St., Suite 4600
Phoenix, AZ 85007



Re: 20-85, In Re: Fernando Britez, DVM


Dear Board Members:

Carson presented on February 20, 2020 for consultation of pain and discomfort. Owner indicated that Carson had been crying and yelping every time he jumped up and down from the furniture. Upon examination Carson was noted as painful in the thoracolumbar area, suspected Valley Fever ("VF") v. Intervertebral disc disease ("IVDD") so Desert Disease Profile from Antech was advised to rule out VF or another infectious condition. At the time of the exam, Carprofen was prescribed and later filled at a different pharmacy.

After lab results were received, VF was discarded as a differential so a tentative diagnosis of IVDD was made. Because of elevations in ALT and ALKP, I advised owner to switch from Carprofen to Tramadol and Gabapentin, since these would be safe to use instead. No objections were made by the owner at the time to those prescriptions and Tramadol was dispensed. Since Gabapentin was not available at the moment in our pharmacy, a request was made to call when Gabapentin became available.

Gabapentin suspension was dispensed on February 29, 2020. After picking up the prescription, the owner asked to talk with me regarding the safety of the drug and its use for seizures. I called the owner on March 2nd, left a message for him to call me. On March 3rd, I received a return call and explained that Gabapentin was used for seizures in humans, but also for neuropathic pain, and explained it as a safe choice for his dog. Owner said that the dog was not painful anymore, and asked me if it would be ok not to use Gabapentin, I said that it would be ok if the dog was not painful anymore. The owner then asked if he could return the Gabapentin that had been picked up on February 29th. I explained that we cannot return medications after they had been picked up. The owner then requested to speak with the front desk, who also explained the return policy. Then, he asked to speak to the practice manager, who also explained that by law we cannot reuse any returned medication after it leaves the building so we could not receive the medication back and refund his money.

In closing, I stand behind the medical treatment provided in this case and honestly feel that this complaint was financially motivated and only filed because the owner is upset that we would not refund his money for a medication that was medically appropriate to prescribe.


Fernando Notario Britez, DVM
Grand Paws Animal Clinic
Surprise, AZ



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INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: AM Investigative Committee: Robert Kritsberg, DVM - Chair
Christina Tran, DVM
Carolyn Ratajack
Jarrod Butler, DVM
Steven Seiler

STAFF PRESENT: Tracy A. Riendeau, CVT - Investigations
Sabrina Kahn, Assistant Attorney General

RE: Case: 20-85

Complainant(s): Michael Lacenski

Respondent(s): Fernando Notario Britez, D.V.M. (License: 6147)

SUMMARY:

Complaint Received at Board Office: 3/9/20

Committee Discussion: 8/4/20

Board IIR: 9/16/20

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018

(Lime Green); Rules as Revised September 2013 (Yellow).

On February 20, 2020, "Carson," a 10-year-old male Terrier mix was presented to Respondent due to pain/vocalizing when jumping on or off the furniture. Upon exam, Respondent noted pain at the thoracolumbar area. Due to the dog's history of right front limb lameness, Respondent recommended blood work, including a Valley Fever Test. The dog was discharged with a prescription for Carprovet.

On February 24, 2020, Respondent discussed the lab work with Complainant's wife; the Valley Fever test was negative and due to the elevated liver values, Respondent recommended discontinuing Carprovet and switching the medication to Tramadol and Gabapentin for pain. Respondent suspected IVDD based on the dog's history.

The Gabapentin was out of stock; the pet owners could pick up the Tramadol and would be contacted once the Gabapentin came in.

On February 29, 2020, the Gabapentin was picked up by the pet owner. Later that day, Complainant called to express concerns with the Gabapentin; he did not feel it was safe for the dog and requested a refund and to return the medication.

Respondent explained that the medication could not be returned once the product left the premises and his money would not be refunded.

Complainant was noticed and appeared telephonically.

Respondent was noticed and was available telephonically. Attorney David Stoll was present.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: *Michael Lacenski*
- Respondent(s) narrative/medical record: *Fernando Notario Britz, DVM*

PROPOSED 'FINDINGS of FACT':

1. The dog had a history of right front limb lameness and had been on Carprovet for pain.
2. On February 20, 2020, Complainant and his wife brought the dog in for an exam. They reported that the dog appeared to be painful all over – it started with the right front leg but now the dog has been vocalizing when he wants to jump on or off furniture. The dog was doing well on Carprovet and once the medications were stopped, the dog became painful again.
3. Upon exam, the dog had a weight = 19.6 pounds and a respiration rate = 40rpm. The medical record reads declined for temperature and heart rate; however, it also states that the dog was muzzled. Respondent noted that the dog appeared painful near the thoracolumbar area – no issues with the dog's neck was noted. He suspected Valley Fever due to the chronic progression of symptoms and recommended blood work, including a Valley Fever test. The pet owners agreed, blood was collected and the dog was discharged with a written prescription of Carprovet.
4. Abnormal blood results are as follows:

ALT	364	(12-118)
ALP	372	(5-131)
BUN/CREAT RATIO	40	(4 -27)
MAGNESIUM	2.7	(1.5 – 2.5)
POTASSIUM	5.7	(3.6 – 5.5)
NA/K RATIO	26	(27 - 38)
CHOLESTEROL	470	(92 – 324)
TRIGLYCERIDE	1128	(29 -291)
PLT COUNT	660	(170 – 400)
5. On February 24, 2020, Respondent spoke with Complainant's wife and discussed the blood work results. He advised that the Valley Fever and Tick Fever were negative; there were elevations in ALT and ALKP therefore he recommended discontinuing the Carprovet and switching medication to Tramadol and Gabapentin. Based on the dog's history, Respondent suspected the dog had IVDD. The pet owner reported that the dog was doing better but was still painful.
6. The Tramadol was filled, however the Gabapentin was out of stock. Complainant's wife was advised that she could pick up the Tramadol and they would call once the Gabapentin was back in stock. The pet owner asked if she should continue the Carprovet and was advised again to discontinue based on the elevated liver enzymes and use the Tramadol.
7. On February 29, 2020, the Gabapentin was filled and the pet owners picked up the

medication. A short time later, Complainant called Respondent to report that he did some research on the Gabapentin and did not feel safe administering to the dog.

8. On March 3, 2020, Respondent was finally able to reach Complainant regarding his concerns with the Gabapentin. Complainant was concerned that the medication was an anti-seizure drug. Respondent explained that the drug was used for seizures in humans but also for neuropathic pain, and was safe for the dog. Complainant advised that the dog was no longer painful and asked if it was ok that he did not use the Gabapentin; Respondent confirmed that the Gabapentin did not need to be given if the dog was not in pain. Complainant asked if he could return the Gabapentin and was told that the medication could not be returned once the product was picked up. Complainant asked to speak with the front desk.

9. The practice manager spoke with Complainant. He wanted to return the Gabapentin and get a refund for the medication as it was for seizures and his dog was not having seizures. The practice manager explained that the medication is used for other conditions and told Complainant that the medication could not be returned and he would not be getting a refund.

COMMITTEE DISCUSSION:

The Committee discussed that they did not have any issues with Respondent dispensing the Gabapentin or not allowing Complainant to return the medication once it left the premises. However, Respondent could have allowed Complainant to return the medication, then dispose of it properly; it may have saved Respondent a lot of time.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that no violations of the *Veterinary Practice Act* occurred.

COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board:

Dismiss this issue with no violation.

Vote: The motion was approved with a vote of 5 to 0.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.

